IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Writ Petition No.15629 of 1997
DATED 23-2-2007

BETWEEN
B.Lakshmana Rao

.. Petitioner

And

A.P.S.E.Board rep by its Secretary,
Vidyuth Soudha, Somajiguda, Hyderabad.

.. Respondents

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.15629 of 1997

ORDER:

The petitioner, who was appointed as a Helper in the respondent Board on 27.11.1980 was promoted as Lineman in Gajuwaka Division. He was transferred on administrative grounds to Operation Division, Visakhapatnam on 14.10.1987. The Operation Division, Visakhapatnam was bifurcated into two divisions viz., Vizag-I and Vizag-II. Since the petitioner's lien continued to be maintained at Gazuwaka Division, the respondent Board issued Memo dated 23.8.1993 to the effect that the Divisional Engineer, Gajuwaka in his letter dated 19.7.2003 had informed that six surplus linemen of the Gajuwaka Division were working in other divisions and names of such persons were mentioned therein

including the name of the petitioner, who is shown as working in Zone-II Vizag. It was also stated in the said memo that the Divisional Engineer informed that 8 posts of linemen had fallen vacant in the Gajuwaka Division and, therefore, he requested the Superintending Engineer to issue suitable orders for repatriation of those six linemen to Gajuwaka Division. The Superintending Engineer, after careful examination of the matter, decided to call for options from those six linemen as to whether they were willing to continue in the Divisions where they were presently working or seek repatriation to the Gajuwaka Division. It is further stipulated in the said memo that if the said linemen were willing to continue in the divisions where they were presently working, the Divisional Engineers would take necessary action for absorption of such linemen in their respective divisions as on the date of issue of the absorption orders and fix up their seniority in the linemen cadre below the existing linemen as on the date of their absorption and intimate the fact of absorption to the Divisional Engineer, Gajuwaka, who in turn would terminate the lien and seniority hitherto maintained in the Gajuwaka Division. The said memo also stipulates that the options exercised by the willing candidates will be recorded in the service registers of the incumbents and that the linemen, who were willing to be repatriated back to the Gajuwaka Division may be allowed to do so and be relieved by the Divisional Engineers of the divisions in which they were presently working. The petitioner submitted his option and accordingly the Divisional Engineer, Visakhapatnam vide letter dated 25.8.2003 informed the Superintending Engineer that the petitioner, who was working at Visakhapatnam had given his consent for absorption in Zone-II Visakhapatnam on administrative

grounds. Consequent thereupon, memo dated 30.8.2003 was issued terminating the lien and seniority of the petitioner herein and another lineman, who opted to work in the Operation Division, Zone-II, Visakhapatnam, in their parent division (Gajuwaka Division) with effect from the date of the order. It was also informed to them that their seniority would be fixed below the existing linemen working in Operation Division, Zone-II as on the date of issuance of the order and on regular absorption, those linemen would be posted to the same place where they were working as such at that time.

While initially claiming that the petitioner's seniority should be reckoned from 27.11.1980, on being pointed out that the petitioner had exercised his option to be absorbed in Viskhapatnam, Zone-II foregoing his lien and seniority at Gajuwaka, Dr.P.B.Vijay Kumar, learned counsel for the petitioner would submit that since the petitioner had been transferred on administrative grounds from Gajuwaka to Visakhapatnam and not at his own request, respondents had erred in fixing his seniority below the candidates, who were appointed as linemen in the year 1993 and that his seniority should be determined atleast from the date of his transfer on 14.10.1987.

I am afraid, I cannot agree. The memo dated 23.8.1993 clearly stipulates that on the options being exercised by the willing linemen, they will be absorbed as linemen and retained in the same place where they were working and that their seniority would be reckoned only from the date of absorption, pursuant to the memo dated 23.8.1993 and that they would be placed below the existing linemen in the seniority list of linemen. It is not in dispute that the

petitioner was given his seniority from the date of his absorption in Visakhapatnam, Zone-II and was placed below those who were appointed/absorbed as linemen prior to his absorption.

Having opted to be retained at Visakhapatnam, Zone-II and having agreed to forego his lien and seniority at Gajuwaka Division, the petitioner cannot now turn around and contend that since he was transferred on administrative grounds on 14.10.1987, his seniority should be reckoned from that date and not from the date of his actual absorption vide proceedings dated 30.8.1993. The petitioner cannot approbate and reprobate. If he was not willing to have his seniority reckoned from the date of his actual absorption on 30.8.1993 in Visakhapatnam, Zone-II, nothing prevented the petitioner from refusing to exercise option and seek his repatriation to the Gajuwaka Division.

Having exercised the option and having enjoyed the benefit of being absorbed and retained at Visakhapatnam, Zone-II, it is not now open for the petitioner to contend that his seniority should be reckoned from the date of his transfer to Visakhapatnam, Zone-II, on 14.10.1987 and not from 30.8.1993 when he was actually absorbed as a linemen in Visakhapatnam, Zone-II.

The writ petition fails and is accordingly dismissed. No costs.

RAMESH RANGANATHAN,J

Dt: 23.2.2007
msv.